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# ***Tax Tips for Liquor Stores***

***January 1993***

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*Note: This pamphlet summarizes the law and applicable regulations in effect when the pamphlet was written, as noted on the cover. However, changes in the law or in regulations may have occurred since that time. If there is a conflict between the text in this pamphlet and the law, the latter is controlling.*

## PREFACE

This pamphlet is designed to help you understand California's Sales and Use Tax Law as it applies to liquor stores. It is not designed to apply to grocery stores, drug stores, department stores having liquor departments, or to bars having off-sale licenses. Separate pamphlets are available explaining the application of taxes to those businesses.

If you cannot find the information you are looking for in this booklet, please contact your local Board office. Staff will be glad to answer your questions. Telephone numbers for Board offices are listed on page 9.

This pamphlet complements another Board of Equalization publication, *Your California Seller's Permit*. That publication, which is provided to first-time applicants for seller's permits, includes general information about obtaining a permit; using a resale certificate; collecting and reporting sales and use taxes; buying, selling, or discontinuing a business; and keeping records. If you do not already have a copy of this booklet, you may request one from your local Board office.

We welcome your suggestions for improving this or any other tax tip pamphlet. Please send your suggestions to:

Audit Evaluation and Planning Section  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0001

# 1. Taxability of Sales

*Because some of your sales will not be taxable, it is important to understand the taxability of the merchandise you sell and other charges to your customers. This chapter is designed to answer many of the questions commonly asked regarding liquor store sales.*

## Taxable and Nontaxable Sales —An Overview

Not all sales are taxable. Taxability will depend on what you are selling. The lists below provide a brief summary of typical sales for liquor stores. The lists are divided according to taxable and nontaxable sales. If you have a question about a sale not listed below or if you would like to know more about a particular sale, please contact your local Board office.

Specific information on bottle deposits, recycling fees, hot prepared foods, money orders, fees for returned checks, lottery sales, newspapers, and periodicals follows the lists below.

### ■ Taxable Sales

The following sales are generally subject to tax:

- All alcoholic beverages
- *Carbonated* water, soft drinks, and mixes
- Ice
- Tobacco products
- Certain hot prepared food products. For more information on hot prepared foods, please see page 4.
- Cough drops
- Books and publications
- Newspapers and periodicals
- Items such as toys, cards, and giftware

### ■ Nontaxable Sales

Sales tax does not generally apply to the following sales:

- Food products that are tax exempt: this includes the usual food items such as milk, ice cream, ice cream novelties, produce, cold meats, dips, cold sandwiches, salads, olives, onions, maraschino cherries, fruit juices, vegetable juices, and candy.

Nontaxable food products also include beverages and cocktail mixes that are neither alcoholic nor carbonated. The exemption applies whether the food is sold in liquid or frozen form.

**Note:** Some foods, such as hot prepared foods, are taxable. See pages 3-4 for more information.

- Amounts received for bottle deposits. (Sales tax, however, does apply to recycling fees. See page 2.)

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## California Redemption Value (Recycling Fee)

Tax applies to the California Redemption Value (recycling fee). Consequently, if you are selling a beverage that is subject to sales tax, the redemption value charged for the container is taxable.

*Example:* You are selling a six pack of cola in nonrefillable containers for \$2.50. Because the cola is in nonrefillable containers, you charge a redemption value of two and one-half cents per container, or fifteen cents. Tax is based on the total amount of the sale. That is, tax is based on \$2.65.

Retailers currently collect a recycling fee of two and one-half cents per container (or five cents per container of 24 ounces or greater) for the following beverages sold in nonrefillable containers:

- Beer and other malt beverages
- Wine coolers, distilled spirits coolers, and other similar beverages
- Carbonated mineral and soda waters
- Carbonated soft drinks in liquid form

### *Notes:*

- Because the redemption value is not considered a deposit under the Sales and Use Tax Law, it must be included as part of total sales on your sales and use tax return. It cannot be claimed as a deduction.
- If your business's sales and storage area total 4,000 square feet or more, you are required to separately state the redemption value in all advertising and on the shelf.
- If possible, you should separately state the redemption value on customer cash register receipts.

## Bottle Deposits

Deposits paid by customers on returnable containers are *not* subject to sales tax. This is true whether or not the containers are returned.

*Example:* You are selling a six pack of cola in refillable bottles for \$2.50. Since the cola is in refillable containers, you do not charge a recycling fee; however, you do charge a bottle deposit of 60 cents. Since bottle deposits are not taxable, sales tax would be based on the \$2.50 (before you add the charge for the bottle deposit).

### *Notes regarding bottle deposits and your sales and use tax return—*

- If you report bottle deposits under total sales, you should claim a deduction for those deposits because they are not subject to tax. (You must be able to substantiate a claim for a deduction. That is, your records must show separate figures for bottle deposits.)
- If you exclude charges for bottle deposits from total sales, you cannot deduct refunds for bottle deposits from total sales.
- If your records do not show separate figures for bottle deposits or refunds, it is presumed that the entire amount shown on the cash register receipt is taxable (this is because it is not possible to identify what is tax exempt).

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## Food Products

As indicated on page 1, many food products such as milk, bread, and cold meats, are not subject to tax. However, some foods that are tax exempt become taxable if they are sold in a heated condition or if they are sold as part of a combination package that includes a taxable product. The following information is designed to explain the taxability of specific types of food sales.

### ■ Hot Prepared Foods

Sales of hot prepared food products are generally taxable. However, there are some exceptions. For example, certain foods heated in microwave ovens may be exempt from tax.

#### ***Hot Prepared Foods Defined***

The heating of a food product to a temperature above room temperature is considered the preparation of a hot prepared food (for example, grilling a sandwich, dipping a sandwich bun in hot gravy, using infra-red lights, using steam tables, and so forth).

Examples of hot prepared foods include:

- Hot sandwiches
- Hot pizza
- Hot barbecued chicken
- Hot soup, bouillon, or consommé
- Hot popcorn

If a hot prepared food is taxable, it remains taxable whether it is to be eaten on the premises or taken out. In addition, hot food is considered taxable even if it has cooled by the time of the sale since it was intended to be sold as a hot food.

#### ***Foods Heated in a Microwave Oven***

Many liquor stores have microwave ovens that are used to heat food products (such as burritos, individual-sized pizzas, soups, and sandwiches). If you are selling a food product that is normally tax exempt (a frozen burrito, for example), the product may become taxable if it is heated in a microwave oven. The location of the microwave ovens determines whether the sale is subject to tax.

If the oven is located in a place that is accessible to your customers, the sale of the heated food product is not taxable (it is presumed that the food will not be sold in a heated condition and that your customers, rather than employees, will use the microwave oven to heat the food).

If the microwave oven is accessible only to store employees, the sale is taxable (it is presumed that employees, rather than customers, will heat the food and sell it in a heated condition).

#### ***Hot Beverages***

Hot beverages, such as coffee and hot chocolate, are exempt from sales tax if they are sold to go and for a separate price. If they are sold to be consumed on the premises, they are taxable.

If they are sold in combination with a cold food product for a single price, they are subject to sales tax. See the next section for more information on combining hot and cold food products.

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*Reminder:* Hot soup, bouillon, and consommé are not considered hot beverages. As noted above, they are considered to be hot prepared foods and are subject to tax.

### ***Combination of Hot and Cold Foods***

If you are selling a combination of hot and cold foods for a single price, the entire package becomes taxable.

*Example:* You are selling a combination of hot coffee and a doughnut for a single price of \$1.50. Since you are selling a hot food product (coffee) and a cold food product (doughnut) together for a single price, tax would apply to the \$1.50 selling price. If the items were sold separately and to go, they would not be taxable.

### **■ Food Sold for Consumption on the Premises**

If you sell food and beverages to be consumed on the premises, they are taxable. For more information on such food sales, see Regulation 1603, *Taxable Sales of Food Products*. Copies may be requested from a local Board office.

## **Money Order Service Charges**

Service charges for money orders are not taxable. Such charges should *not* be included on your sales and use tax return as part of your business's gross receipts.

## **Charges for Returned Checks**

Amounts charged for returned checks are not taxable. Such charges should *not* be included on your sales and use tax return as part of your business's gross receipts.

## **Lottery Sales**

Sales of tickets for California Lottery games are not subject to sales tax and should not be reported on your sales and use tax return as part of your business's gross receipts. It is important that you keep your receipts for lottery sales completely separate from receipts for merchandise sales. In the event of an audit, you must be able to clearly identify nontaxable transactions.

## **Newspapers, Magazines, and Other Periodicals**

Newspapers and periodicals that you sell to your customers are taxable. (Some exemptions exist, but they generally apply to free periodicals, periodicals distributed to members of qualified nonprofit organizations, periodicals published by organizations that are exempt from federal income tax, and certain periodicals sold on a subscription basis. For more information on the taxability of periodicals, please see Regulation 1590, *Newspapers and Periodicals*.)

## **Books**

Sales of books are taxable.

## **Sales of Fixtures and Equipment**

If you sell equipment and fixtures used in your business, the sale is taxable (sales of fixtures and equipment used in an activity requiring the holding of a seller's permit are taxable). Such sales are subject to tax even if they occur as the result of the sale, reorganization, or closure of your business. For more information on this topic, please request a copy of Regulation 1595, *Occasional Sales — Sale of a Business — Business Reorganization*.

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## 2. Taxability of Purchases

*As a retailer, you make numerous purchases related to your business. Those purchases may be for goods and services you need to operate your business. Or they may be for items that you will sell to your customers. This chapter includes information on the taxability of purchases related to your business.*

### **Merchandise Purchased for Resale**

When you use a resale certificate to purchase taxable merchandise for resale, you do not pay sales or use tax at the time of your purchase. Sales tax applies when you sell the merchandise at retail.

However, if you purchase taxable merchandise for resale but use it for personal purposes, you must pay use tax to the Board (use tax is explained later). Examples of how you may use merchandise for purposes other than for resale include, but are not limited to the following: merchandise used for donations to certain organizations; merchandise used for personal use; and merchandise given to friends, associates, or employees.

If you know at the time of purchase that the taxable merchandise you are buying will not be resold, you cannot use a resale certificate and must pay sales or use tax.

If you have paid sales or use tax on merchandise and resell it before you have made personal use of it, you can take a credit on the tax return in which you report the sale. You can deduct the amount of the purchase price before sales or use tax was added. It is reported on your return under "Tax-Paid Purchases Resold."

*Note:* Holding property for resale or using it solely for demonstration or display purposes before it is resold is not considered a personal use of property. That is, you can purchase property that will be used for such purposes without paying sales or use tax at the time of the purchase. If you do not use the property for personal use before it is sold, the property becomes subject to sales tax at the time it is sold.

### **■ Use Tax**

As noted above, use tax is due and payable if you purchase taxable property without paying California tax and use the property for a purpose other than for resale. The use tax rate is the same as the sales tax rate.

To pay use tax, you report the purchase price of the taxable items under "Purchases Subject to Use Tax" on your tax return. Those purchases become part of the total amount that is subject to tax.

Donations of taxable merchandise to certain charitable organizations are considered to be exempt from tax. The purchase price of those donations does not need to be reported on your tax return. For more information on charitable organizations that are exempt from tax, contact your local Board office.

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## **Supplies, Equipment, and Other Business Expenses**

Items you purchase for use in your business (display equipment, advertising materials, bookkeeping supplies, maintenance supplies, storage equipment, refrigeration units, and so forth) are subject to sales or use tax at the time you purchase them.

Normally such items are purchased from local suppliers who add and report sales tax. However, if you purchase equipment or supplies from an out-of-state seller, the sale is subject to use tax (use tax is explained above).

If the out-of-state seller does not charge California use tax, you should report the purchase price on your tax return (under "Purchases Subject to Use Tax").

*Note:* Wrapping and packaging supplies used to wrap merchandise sold to your customers may be purchased for resale. All other purchases of supplies, however, are subject to tax.



## 3. Inventory Controls

*Good inventory controls are important for the following reasons:*

- *First, as a store operator, you must be able to account for all merchandise you purchased for resale. If you are audited by a Board representative, he or she will compare your purchases with your sales. If the volume of sales appears low in comparison to the volume of purchases, you will be asked to account for the difference. Sometimes the difference is due to losses of merchandise from robberies, shoplifting, or short deliveries. Good records will help you account for those losses.*
- *Second, good books and records are the key to early detection of losses. Losses can be expected unless good controls are maintained over merchandise inventory from the time goods are purchased until sold.*

### Recommended Inventory Controls

For sales and use tax purposes we recommend that you:

- Keep a record of all merchandise removed from inventory for other use and keep a record of all sales at case discount price.
- Take a physical inventory at frequent intervals. This should be done at least once a year. Be sure the inventory is complete and accurate. In the period between inventories, compute the cost of merchandise sold, add the expected percentage of markup, and deduct case discounts for the period of time involved. Your computed figure should be very close to the sales made for the same period. Any substantial difference between the computed figure and the amount in the sale account represents the retail value of losses.
- Keep accurate and complete records of sales and purchases.
- Ensure that your records of purchases for resale are accurate and complete and do not include supplies or other items not for resale. (Merchandise received but not yet paid for should be included.)

### Types of Losses to Look for

You should look for the following types of losses

- Money pocketed by employees and covered up by not ringing up the sale or ringing it up at a lesser amount
- Merchandise pilfered by employees, clean-up crews, or other persons with access to the store
- Short deliveries or pilferage by delivery persons
- Shoplifting by customers

*Note:* Robberies of cash are not deductible for sales tax purposes because tax is measured by sales. You still have the responsibility to pay tax on taxable sales in the usual manner despite a loss of proceeds of sales.

## 4. For More Information

### For More Information

Copies of publications and regulations may be obtained through a local Board office. See page 9 for telephone numbers. It is recommended that you call ahead and ask whether the publication you need is in stock.

Publications may also be ordered in writing from:

Supply Unit  
State Board of Equalization  
3920 West Capitol Avenue  
Suite 200  
West Sacramento, CA  
95691.

You may:

- Contact your local Board office and talk to a representative about how to apply the law or complete a form.
- Request copies of the laws and regulations that apply to your business.
- Write for advice regarding the taxability of a particular sale or transaction. Written requests should be sent to your local Board office or to the Board's headquarter offices. They should fully describe the facts and circumstances of the transaction.

*Note:* If you rely on a written response from the Board regarding the taxability of a particular sale or transaction, you may be relieved of any tax, penalty, or interest related to that transaction if the Board determines that its written response included errors.

- Enroll in a basic sales and use tax class offered by some local Board offices. You should call ahead to find out whether your local office conducts a class for beginning sellers.

### ■ Regulations

- 1602 Food Products
- 1603 Taxable Sales of Food Products
- 1700 Reimbursement for Sales Tax

A complete listing of Board regulations appears in the publication *Your California Seller's Permit*.

### ■ Publications

Publications that may be of interest include the following pamphlets:

- 44 *District Taxes*
- 61 *Sales and Use Taxes: Exemptions and Exclusions*
- 70 *The California Taxpayer's Bill of Rights*
- 73 *Your California Seller's Permit*
- 74 *Closing Out Your Seller's Permit*
- 75 *Interest and Penalty Payments*
- 76 *Audits and Appeals*
- 77 *Publications*

As a registered seller, you also receive the *Tax Information Bulletin*, which includes articles on the application of law to specific types of transactions, announcements regarding new and revised publications, and other articles of interest to registered sellers.

## 5. Field Offices

Staff located in the Board of Equalization field offices listed below will be glad to answer your questions regarding the taxes administered by the Board. If you already have a seller's permit and are calling regarding your account, you will receive quicker assistance if you have the number of your permit available when you call.

City	Area Code	Number	City	Area Code	Number
Arcadia	818	350-6401	Sacramento	916	255-3350
(from LA)	213	681-6675	Salinas	408	443-3008
Arroyo Grande	805	489-6293	San Bernardino	909	383-4701
Auburn	916	885-8408	San Diego	619	525-4526
Bakersfield	805	395-2880	San Francisco	415	396-9800
Bishop	619	872-3701	San Jose	408	277-1231
Chico	916	895-5322	San Marcos	619	744-1330
Concord	510	687-6962	San Mateo	415	573-3800
Covina	818	331-6401	San Rafael	415	472-1513
Crescent City	707	464-2321	Santa Ana	714	558-4059
Culver City	310	313-7111	Santa Barbara	805	564-7731
(from LA)	213	879-0600	Santa Cruz	408	462-9496
Downey	310	803-3471	Santa Rosa	707	576-2100
(from LA)	213	773-3480	Sonora	209	532-6979
El Centro	619	352-3431	South Lake	916	544-4816
Eureka	707	445-6500	Tahoe		
Fresno	209	445-5285	Stockton	209	948-7720
Grass Valley	916	272-1347	Susanville	916	257-3429
Hollywood	213	913-7800	Torrance	310	516-4300
Laguna Hills	714	770-2157	(from LA)	213	770-4148
Lakewood	310	421-3295	Ukiah	707	463-4731
(from LA)	213	636-2466	Union City	510	429-7090
Lancaster	805	940-7383	Vallejo	707	648-4065
Marysville	916	741-4301	Van Nuys	818	901-5293
Merced	209	726-6527	Ventura	805	654-4523
Modesto	209	576-6360	Visalia	209	732-5641
Oakland	510	286-0347	Woodland	916	662-7331
Ontario	909	983-5969	Yreka	916	842-7439
Oroville	916	538-2246			
Placerville	916	622-1101			
Quincy	916	283-1070			
Rancho Mirage	619	346-8096			
Redding	916	224-4729			
Riverside	909	782-4330			

### ***Taxpayers' Rights Advocate***

The State Board of Equalization has appointed a Taxpayers' Rights Advocate to help you with problems you cannot resolve at your local Board office. You may contact the Taxpayers' Rights Advocate by writing to the State Board of Equalization; P.O. Box 942879, Sacramento, CA 94279-0001; or by telephoning 916-324-2798.

### **Offices for Out-of-State Accounts**

Chicago, IL	312	201-5300
Houston, TX	713	681-1106
New York, NY	212	697-4680
Sacramento, CA	916	322-2010

California State Board of Equalization  
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